

## CHAPTER 5

### COMMERCIAL REGULATIONS

#### Article 1. Licenses and Permits

##### Title 1. General Provisions

##### Section 5-1101. Exemptions

Nothing in this Article shall be construed to require that a City license or permit be obtained by:

(A) Any person, firm or corporation required to obtain a State license under the provisions of the Business Regulation Article or the Business Occupations and Professions Article, Annotated Code of Maryland, unless expressly declared by this Article as necessary for regulatory purposes in the interest of the public health, safety or morals.

(B) Any person, firm or corporation making a sales presentation at a City residence in response to a request initiated by an occupant of that residence.

(C) Any person, firm or corporation making a sales presentation at a City residence in response to a request initiated by an occupant of that residence.

(D) Any news person who takes orders for the delivery of newspapers.

(E) Any person expressly excluded from the requirements of this Article.

*Revisor's Note: For State law regarding the provisions of Subsection (A), see the Business Regulation Article and the Business Occupations and Professions Article of the Annotated Code of Maryland. The following business activities or occupations are among those required to obtain State licenses. (The specific number of the Section within the Business Regulation (BR) or Business Occupations and Professions (BOP) Article is indicated by the parenthesis following each business or occupation): billiard tables (BR 17-501 et seq.), coin operated musical devices (BR 17-1301 et seq.), hawkers or peddlers (BR 17-901 et seq.), traders and chain stores (BR 17-1801 et seq.), cigarettes (BR 16-101 et seq., 16-201 et seq. and 16-301 et seq.), vending machines (BR 17-1901 et seq.), private detectives (BOP 13-101 et seq.), boxing and wrestling events (BR 4-301 et seq.), motor vehicle fuel (BR 10-301 et seq.), outdoor music festivals (BR 17-1401 et seq.), garages for storage or for keeping vehicles for hire (BR 17-801 et seq.), employment agencies (BR 9-101 et seq.), trading stamp companies (BR 13-101 et seq.), wholesale dealers of farm machinery (BR 17-701 et seq.), soda water fountains (BR 17-1701 et seq.), storage warehouses (BR 17-1201 et seq.), dry cleaners and laundries (BR 17-1101 et seq.), restaurants and eating places (BR 17-1601 et seq.), plumbers and gas fitters (BOP 12-101 et seq.), construction firms (BR 17-601 et seq.), real estate brokers (BOP Title 17), junk dealers (BR 17-101 et seq.), landscape architects (BOP 9-101 et seq.), foresters (BOP 7-101 et seq.), land surveyors (BOP 15-101 et seq.), franchises (BR 14-201 et seq.), sale of business opportunities (BR 14-101 et seq.), pawnbrokers (BR 12-101 et seq.), barbers (BOP 4-201 et seq.), barbershops (BOP 4-501 et seq.), plumbing work (BR 17-1501 et seq.), architects (BOP 3-101 et seq.), cosmetologists and beauty shops (BOP 5-101 et seq.), hearing aid dealers (See Section 2-101 et seq. of the Health Occupations Article, Annotated Code of Maryland), master electricians (BOP 6-101 et seq.) and pharmacists (See Section 12-301 of the Health Occupations Article, Annotated Code of Maryland; also note that the State requires distribution permits for prescription drugs, Section 12-602, and pharmacy permits for the operation of a pharmacy, Section 12-401). Also see those business activities and occupations which*

are listed at Section 5-1102 and for which municipalities may not issue licenses under the exemption described at Subsection (A) of Section 5-1101.

#### Section 5-1102. State Preempted Licenses

Nothing in this Article shall be construed to apply to the following areas of regulation which have been reserved by the State of Maryland for its exclusive control:

- (A) Manufacturers, located and doing business in the State, who sell and deliver at the same time to licensed dealers or retailers in the State, but not directly to consumers.
- (B) Growers or producers who sell fresh fruits, vegetables or other country produce at retail from a wagon.
- (C) Nonresident traveling salesmen, sample merchants or representatives of foreign mercantile or manufacturing firms who sell to or solicit orders from licensed merchants in this State.
- (D) The qualifications of persons engaged in the home-improvement business through the repair, replacement, remodeling, alteration, conversion, modernization, improvement, or addition to any land or building designed to be used as a dwelling unit; including:
  - (1) the construction, replacement or improvement of driveways, swimming pools, porches, garages, landscaping, fences, fall-out shelters,
  - (2) the installation of central heating or air conditioning systems, storm windows, awnings, fire alarms, and
  - (3) the installation of dishwashers, disposals, refrigerators with icemakers or other appliances to existing exposed household plumbing lines unless such lines require alteration.
- (E) The privilege of engaging in the business of a collection agency.
- (F) Persons engaged in buying, acquiring or trading commercially with members of the public in secondhand precious metals and gems.

*Revisor's Note: For State laws preempting municipal licensing regulations in these areas, see the following sections of the Annotated Code of Maryland: for Subsection (A) - Business Regulation (BR) Article, Section 17-803(a); for Subsection (B) - BR Article, Section 17-912(b) and (c) (municipalities may require that such growers or producers apply for identification tags or cards); for Subsection (D) - BR Article, Section 8-102; for Subsection (E) - BR Article, Section 7-104; for Subsection (F) - BR Article, Section 12-102(d).*

#### Section 5-1103. Licenses or Permits Required; Conditions

No person shall engage in or carry on any business in the City of Brunswick for which a license or permit is required by the County or by the terms of this Article without first having obtained a license to do so. Applications for City licenses or permits shall be made to the City Clerk. The Mayor and City Council or their duly authorized representative shall review each application and shall assure themselves that all City Code and ordinance provisions are complied with. No City license or permit shall be granted until payment for same shall have been made. The City license year shall begin on May 1 and extend to and include April 30.

#### Section 5-1104. Issuance of Licenses or Permits

Each license or permit issued under the provisions of this Article shall contain the name and address, and if an individual, the description of said individual to whom issued, and if issued to a firm, partnership, company or corporation, such license or permit shall contain the name of the firm, partnership, business, company or corporation, the address of its principal office or place of business, and in the case of a corporation, the name and address of its resident agent.

#### Section 5-1105. Authorized Licensees or Permittees

A license issued under the provisions of this Article to a firm, partnership, business, company, or corporation may be used by any of the employees of such firm, partnership, business, company, or corporation in the ordinary course of his, her, or their business.

#### Section 5-1106. Display of Licenses or Permits

Each person, firm, business, company, partnership or corporation, or business enterprise of an type or description, authorized to operate by the City, County or State shall carry said license either in the vehicle, if any, operated in the course of said business, or upon his person, if an individual, or upon the premises of the business, if said business is conducted in a premises in the City of Brunswick, at all times while conducting said business, and the same shall be exhibited upon demand of any police officer of the City of Brunswick. Said license or permit shall be attached to the vehicle, if any, on the inside right hand side of such vehicle and shall be visible at all times.

#### Section 5-1107. Suspensions and Revocations

(A) All City licenses or Permits for the conduct of a business shall be subject to suspension by the City Clerk and to revocation by the Mayor and City Council after a public hearing, if it is shown that such license or permit was erroneously issued or was obtained by fraud, misrepresentation or concealment of material facts, or that the business or the manner in which such business is conducted constitutes a public nuisance or a danger to the public health, safety or morals, or if such business is being conducted in violation of any law or ordinance of the United States, the State of Maryland, Frederick County or the City of Brunswick, or if such place of business is being used for any illegal purpose.

(B) Before any City license or permit shall be finally revoked, a notice of suspension shall be served on the holder by delivery to the holder's place of business or last known address, advising the holder of the reason for suspension of the license or permit and of the holder's right to appeal and to appear before a public hearing of the Mayor and City Council no sooner than five (5) days from the date of notice and at a date and time to be stated therein to show cause why such license or permit should not be revoked. Failure to file a written appeal with the City Clerk before the date of the public hearing shall constitute a waiver of the holder's right of appeal and public hearing and shall result in an automatic final revocation of the holder's license or permit.

(C) If such a license or permit be suspended or revoked, it shall thereafter be unlawful for any person, firm or corporation to engage in or be employed in any business at any such location until a suspension be stayed or until license or permit shall again be obtained. Filing of an appeal shall stay suspension of a license or permit, but shall not stay a revocation unless the Council shall grant such a stay.

#### Section 5-1108. Payment of License or Permit Fees

All persons required to obtain an annual City license or permit shall apply in person to the City Clerk of the City of Brunswick for the same on or before the first Monday in May in each and every year, or if said day be a legal holiday, on the next succeeding business day thereafter and shall, at the time of so doing pay therefore to the City Clerk an annual fee as specified at Article 2. When a license or permit is issued for a part of a year, the fee shall be calculated on a pro-rata basis.

## Title 2. Regulated Establishments

### Section 5-1201. Licensed Establishments

It shall be unlawful for any person, persons, firm, firms, company, companies, partnership, partnerships, or corporation or corporations, within the corporate limits of the City of Brunswick, Maryland, to own, keep, or operate, without having first obtained a license, the following establishments:

(A) Skating rinks.

(B) Beer taverns not otherwise qualifying as restaurants or eating places.

*Revisor's Note: Restaurants and eating places are regulated by the State Health Department and are subject to State licensing and inspection requirements.*

### Section 5-1202. Prohibited Establishments

It shall be unlawful to maintain hogs or hog pens of any type or description within the corporate limits of the City of Brunswick.

## Title 3. Regulated Activities

### Section 5-1301. Public Dances

It shall be unlawful for any person or persons, club or clubs, organization or organizations, firm or firms, corporation or corporations, of whatever type or description, within the corporate limits of the City of Brunswick, Frederick County, Maryland, to hold a public dance between the hours of 12:00 o'clock midnight and 12:00 o'clock noon and on national holidays, except that any bona fide civic or service organization may, by obtaining a permit as hereinafter provided, hold or conduct a public dance until the hour of 1:00 o'clock a.m. or upon a national holiday within the corporate limits aforesaid, provided that the purpose of such organization or organizations in holding such public dance is to raise funds for charitable, religious or civic purposes or enterprises. This Section shall not apply to private homes wherein dancing may be conducted or dance music performed for the amusement and enjoyment of the householders, members of their families and guests.

### Section 5-1302. Fortunetelling and Palmistry

It shall unlawful for any person to engage in or practice clairvoyance, astrology, mind reading, palmistry, phrenology, divination or other psychical means or pretense of fortunetelling for gain, either directly or indirectly, within the City.

Section 5-1303. Public Entertainment

It shall be unlawful for any person, persons, firm, company, partnership or corporation without first having obtained therefore a license, as hereinafter provided, from the City Clerk, within the corporate limits of the City of Brunswick, to conduct, manage or in anywise engage in as manager, proprietor, lessee or otherwise, or to exhibit any circus, carnival, merry-go-round or sideshow of any type or description, either for showing or parading in the City of Brunswick, or to have any theatrical performance or moving picture show or exhibition of any type or description, or for any exhibition of public entertainment of any type or description, whether or not an admission fee is charged for the same; provided that lectures on scientific, benevolent, artistic, religious or literary subjects, and any necessary apparatus for the conduct of the same, and the use of specimens for fine art, and any exhibition, show or amusement for the benefit of any fire company of said City of Brunswick, or for any charitable, religious, or educational purposes shall be exempt from the provisions of this ordinance. The Mayor of the City of Brunswick shall have the power to direct the said City Clerk not to issue a license for any show, circus, theatrical performance or other entertainment of any type or description, whenever in his judgment the production or exhibition thereof would tend to demoralize the community and its citizens or create a disturbance or disorder in the community, or be against the best interests of the City of Brunswick and its citizens; provided, however, that if the City Council should, by unanimous vote of its members, authorize the issuing of said license, then the same shall be issued by the City Clerk.

Section 5-1304. (Reserved)

Section 5-1305. Solicitors

No salesman, person, firm, partnership, corporation or any other business enterprise of any type or description, not having an established place of business within the corporate limits of the City of Brunswick, on the effective date of this Ordinance, shall sell, hawk, peddle, offer for sale, solicit orders, for merchandise or otherwise, at retail, unless said salesman, person, firm, corporation, partnership or business enterprise of whatever type or description shall have previously obtained an identification tag from the City Clerk of the City of Brunswick.

*Revisor's Note: For State law prohibiting the sale or distribution of drugs and medicines on public streets or by means of a public show, see Section 21-1112 of the Health-General Article, Annotated Code of Maryland.*

*Mayor and Council of Brunswick Code of Ordinances*

Title 4. Taxicabs

Section 5-1401. Definitions

The following words and phrases when used in this Title shall have the meanings respectively ascribed to them in this Section, except in those instances where the context clearly indicates a different meaning.

Driver. The person in control of and operating or driving a taxicab on the streets of the City of Brunswick.

Owner. The person in whose name the taxicab has been registered by the State Department of Motor Vehicles.

Person. An individual, firm, partnership, association, corporation owner or driver as herein described.

Taxicab. Any motor vehicle for hire, designed to carry seven or fewer individuals, including the driver, and used to accept or solicit passengers for transportation for hire between those points along highways in this State as the passengers request.

Section 5-1402. Special Taxicab License Required

No taxicab owner shall operate or permit a taxicab to be operated within the corporate limits of the City of Brunswick without securing a special taxicab license for each vehicle from the City Clerk. A photograph of the driver shall be affixed by the owner to each license and a duplicate copy thereof shall be delivered to the City Police Department.

Section 5-1403. Safety Certificate Required

No special taxicab license renewal application shall be processed without being accompanied by a safety certificate issued by the City Police Department within 30 days prior to the application. Each such certificate shall certify the results of an inspection conducted by the Police Department and shall affirm that the taxicab and all equipment used in connection with its operation is in proper physical condition so as not to present a threat to the safety of passengers or the general public.

Section 5-1404. Insurance Required

No taxicab shall operate within the corporate limits of the City of Brunswick nor shall any license be issued therefore, unless and until the owner shall deposit with the City Clerk for each such taxicab a certificate of coverage by a public liability and property damage insurance policy in the sum to be established from time to time by the City Council, such insurance policy

*Mayor and Council of Brunswick Code of Ordinances*

to be procured from a liability insurance company authorized and licensed to do business in the State of Maryland. No certificate of insurance coverage shall be accepted by the City Clerk as complying with this Section if it contains any provision relieving the insurance company from liability because of the failure of the owner or driver to notify the insurance company of the happening of any accident resulting in bodily injury or property damage. Each certificate or policy shall contain a clause obligating the insurance company to give twenty days written notice to the City Clerk before cancellation thereof. The license for the operation of any taxicab issued under this policy shall expire upon the lapse or termination of said policy, subject to reinstatement upon compliance with the provisions of this Section. In the event of reinstatement within the licensing period covered by the license previously issued, no new license fee shall be charged.

Section 5-1405. Display Required

Each taxicab shall display in full public view each of the following:

(A) Special taxicab license as required by Section 5-1106;

(B) Rate Schedule Card not less than three inches in width and four inches in length on which shall be printed in letters as large as the space will permit, a clear and understandable schedule of the rates established for the use of such taxicab.

Section 5-1406. Driving Record Restrictions

No person shall drive a taxicab within the City who shall have two or more convictions by a court of competent jurisdiction within twelve months for reckless driving or for three convictions by such Court within said period of exceeding speed limits or failure to observe signs or signals erected in accordance with law for the regulation and control of traffic. No person shall drive a taxicab within the City who shall have been convicted of manslaughter by automobile.

*Revisor's Note: See Section 16-69 of the Municipal Charter of Brunswick.*

**Article 2. Revenues and Administrative Charges**

Title 1. Fees

Section 5-2101. State Preempted Fees

Nothing in this Article shall be construed to authorize a fee or occupational tax upon any person, firm or corporation for transacting any business or engaging in any occupation for which a State license must be obtained under the provisions of Article 56, Annotated Code of Maryland.

*Revisor's Note: For State law prohibiting a municipality from levying a fee or tax on a business or occupation licensed by the State, see Section 1-204 of the Business Regulation Article, Annotated Code of Maryland.*

Section 5-2102. Annual License or Permit Fees

Except as otherwise stated in this Title, the annual license or permit fee for each business activity

and occupation within the jurisdiction of this Article shall be fifty dollars (\$50).

#### Section 5-2103. Taxicab License Fees

The annual license fee for each taxicab operated within the City shall be one hundred dollars (\$100).

#### Section 5-2104. Parking Space Fees

The City Council may establish an annual fee and authorize the City Clerk to issue annual Parking Space Permits for metered or non-metered parking spaces to provide ready office access for persons receiving or providing medical, dental, legal, or other professional services within the City.

### **Article 3. Franchises and Agreements**

#### **Title 1. Cable Television**

#### Section 5-3101. Definitions

For the purposes of this Title, the following terms, phrases, words and derivations shall have the meaning given herein.

City. The City of Brunswick, Maryland.

Operator. GS Communications, Inc.

Person. The governing body of Brunswick, Maryland.

Cable Television System (or CATV System). A facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals by wire, cable, or satellite transmission to subscribing members of the public who pay for such service, but such term shall not include: (1) any such facility that serves fewer than 50 subscribers, or (2) any such facility that serves only the residents of one or more apartment dwellings under common ownership, control, or management, and commercial establishments located on the premises of such apartment house.

System. The poles, lines, fixtures, equipment, attachments, and all appurtenances thereto which are used in the construction, operation, and maintenance of the cable television and satellite transmitted systems herein authorized.

Utility. Any utility doing business in the City, whose facilities may be used by the cable television system operator.

#### Section 5-3102. Grant of Non-Exclusive Authority



(A) GS Communications, Inc. is hereby granted a franchise to construct, erect, operate and maintain in, upon, along, across, above, over and under, the streets, alleys, public ways, and public places, now laid out or dedicated and all extensions thereof and additions thereto in the City, wires, poles, cables, underground conduits, conductors and fixtures necessary for the maintenance and operation in the City of a cable television system for the reception and distribution of television signals and energy, radio signals, and visual and aural signals which are not otherwise herein prohibited. The rights granted extend to any area annexed to the City and the Operator shall be bound by the same rules and regulations as to such area as are otherwise herein or hereafter provided. This grant extends to the leased or rented use of poles and other facilities of any utility now or in the future operating in the City.

(B) The right to use and occupy streets, alleys, public ways and places for the purpose herein set forth, shall not be exclusive and the City reserves the right to grant the use of streets, alleys, public ways and places to any person at any time during the period of any franchise granted under authority of this ordinance.

(C) The franchise granted under authority of this Title shall remain in full force and effect until November 11, 2009, and shall be subject to renewal for a reasonable term.

#### Section 5-3103. Compliance with Federal Laws, Rules, and Regulations

(A) The exercise of the franchise shall conform with all provisions affecting the franchising of cable television operators contained in the Federal Communications Act of 1934, as amended.

(B) The Operator shall comply with all rules and regulations of the Federal Communications Commission, including such technical standards as are promulgated by the Federal Communications Commission.

(C) Any modification of the franchise standards of the Federal Communications Commission resulting from amendments to such standards by the Federal Communications Commission, shall be incorporated into this Title within one (1) year of the adoption of the modification by the Federal Communications Commission.

#### Section 5-3104. System Capacity

The system authorized by this franchise shall be capable of providing at least 12 channels of video service and may include a selection of FM radio stations.

#### Section 5-3105. Service Standards

(A) The Operator shall maintain and operate the system and render efficient service in accordance with the rules and regulations as are or may be set forth by the City or the Federal Communications Commission.

(B) The Operator shall take all necessary steps so that the system shall maintain at all times:

- (1) Use of all band equipment capable of passing the VHF television and FM radio spectrum
- (2) Equipment that passes standard color television signals without material degradation
- (3) A system and all equipment designated and rated for 24-hour per day continuous

operation

(C) The Operator shall provide and keep accurately calibrated test equipment on hand in the service area at all times for the testing of all service and operational standards outlined in this Title and shall conduct tests as reasonably requested by the City under the supervision of a City representative, in order to establish the level of performance of the system.

(D) The Operator shall not be deemed or declared to be in default under any of the conditions, provisions, requirements or limitations of this Title in any case in which the performance of any such condition, provision, requirement or limitation is prevented by reason of strikes, injunctions or other causes beyond the control of the company, provided that the company shall not have instigated such strike, or shall not have been responsible for suits or injunctions or other causes of delay.

#### Section 5-3106. Operational Standards

The Operator shall:

(A) Distribute signals of adequate strength to produce good pictures and good sound at all outlets without unreasonable interference with other electrical or electronic systems.

(B) Upon request by any subscriber, demonstrate by instruments and otherwise that a signal of adequate strength and quality is being delivered.

(C) Limit failures to a minimum by locating and correcting malfunctions promptly.

(D) Render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible, and to keep and maintain such a proper and adequate inventory of maintenance and repair parts for the cable system as will assure the continuity of the service of the system and to have maintenance and repair crews available in accordance with good engineering practices.

(E) Attempt to resolve individual service complaints within 24 hours and attend major disruptions of service immediately.

(F) Maintain an agent, or a local office which shall be open during usual business hours, have a listed telephone and be so operated that complaints regarding the quality of service, equipment malfunctioning and similar matters, and requests for repairs or adjustments may be received at any time. A report of the investigation and resolution of such complaints and requests shall be made to the City on request.

(G) Not interfere with the proper use of streets, alleys, and other public ways and places, nor with the rights or reasonable convenience of property owners who adjoin any streets, alleys, or other public ways and places by means of transmission and distribution structures, lines and equipment erected by the Operator within the City.

(H) In case of any disturbance of pavement, sidewalks, driveways, or other surfacing, at its own expense replace and restore such places so disturbed to as good condition as before said work was commenced, so far as is reasonably possible.

(I) Upon reasonable notice by the Mayor, remove, re-lay and relocate its equipment in the event that at any time during the period of any franchise granted under authority of this Title, the City

shall lawfully elect to alter or to change the grade of any street, alley, or other public way, or require existing utilities to be located underground.

(J) On request of the City, temporarily raise or lower its wires to permit the moving of buildings. This expense shall be charged to the person moving the building.

#### Section 5-3107. Indemnification and Liability Coverage

The Operator shall save the City, its officers and employees harmless from all loss sustained by the City, its officers and employees on account of any suit, judgment, execution, claim, or demand whatsoever arising out of negligent construction, operation and maintenance of the system by the Operator. The Operator shall maintain and keep in full force and effect at all times during the term of its franchise, sufficient liability insurance coverage to protect the City, its officers and employees against any such claim, suits, judgments, executions, or demands in a sum not less than \$100,000 per person as to any one claim, \$300,000 as to any one accident or occurrence, and not less than \$50,000 for property damage as to any one accident occurrence. There shall be filed and maintained in the Office of the City Clerk a Certificate of Insurance and copies of each current liability and indemnification policy required by this Title.

#### Section 5-3108. Performance Bond

There shall be filed and maintained in the office of the City Clerk a performance bond running to the City from a responsible surety in the sum of \$5,000. In case of any breach of the terms or conditions of this Title, the amount of the requisite performance bond shall be recoverable from the principal and surety thereof by the City. Operator shall maintain such bond in force throughout the term of its franchise. Operator shall not be liable for any loss caused by strikes, riots, fires, acts of God or other cause beyond Operator's control.

#### Section 5-3109. Subscriber Rates

The rates to be charged subscribers for basic service provided by the Operator shall not be increased except as authorized by the City Council after an appropriate public hearing.

#### Section 5-3110. Payments to the City

(A) The rights and privileges granted to the Operator are upon the condition that said Operator shall pay to the City as consideration therefore an annual franchise fee of an amount not exceeding three percent (3%) of the annual gross revenue of the Operator received by it for cable television service in the City with the exception of those revenues received by the Operator for satellite transmitted programs in which case a fee of three percent (3%) of the net income for service received by the Operator would be paid to the City.

(B) For the purpose of ascertaining the gross revenue received by the Operator for cable television service upon which the said percentage payments are to be computed as aforesaid an accurate account thereof shall be kept by said Operator and an abstract and account thereof made available during business hours by it to the City.

(C) The franchise fee shall be in lieu of all other business, occupation or franchise taxes, or other City taxes or fees required to be paid by Operator, or shall be applied as a credit against said taxes or fees.